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INDIAN RIGHTS ASSOCIATION

CASE OF THE MISSION INDIANS IN SOUTHERN CALIFORNIA

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THE CASE

OF THE

Mission Indians in Southern California,

AND THE

Action of the Indian Rights Association in supporting the defence of their Legal Rights.

PUBLISHED BY ORDER OF EXECUTIVE COMMITTEE.

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Office of the Indian Rights Association,
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March 1st, 1886.

THE CASE
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MISSION INDIANS IN SOUTHERN CALIFORNIA.

Mrs. Helen Hunt Jackson, the authoress of "A Century of Dishonor" and the story of "Ramona," has long been known as a writer of great power and beauty; but during recent years, especially, she has achieved a high reputation as an advocate of Indian Rights, gifted with rare eloquence and deep moral enthusiasm. The Indians with whose wrongs Helen Hunt was especially familiar, as well from close personal acquaintance as through a study of their history, are known as the Mission Indians of Southern California. These people, who more than one hundred years ago were converted to Christianity by the Franciscan Fathers, ever since that time until the acquisition of California by the United States, have lived in independent communities a peaceful and prosperous life. The terrible history of these inoffensive Indians, and the wrongs which they have suffered at the hands of the Government and of citizens of the United States, form the plot of the story of Ramona. The most dramatic and apparently incredible incidents in Ramona are based upon indubitable facts, which were unearthed by Mrs. Jackson when, under appointment from the President (June 30th, 1882), she went among the Mission Indians as a United States Commissioner, to investigate and report upon their condition and needs. Mrs. Jackson wrote Ramona not so much with the intention of pleasing the public by a fascinating story as of touching the conscience of the American people, and stimulating them to redress wrongs of which they had been guilty. Nothing troubled her more than to find that

many of her readers and critics misconceived the noble purpose which had inspired her pen, and closed the leaves of her story with no deeper emotion than a sense of literary satisfaction, and with the exclamation, "What a charming idyl!"

Helen Hunt Jackson died in San Francisco during the past summer, without seeing the fruition of her labors; but a few weeks before her death she gladly granted an interview to Prof. Painter, the agent of the Indian Rights Association at Washington. She greatly rejoiced at his visit, even at the moment when her long illness was fast approaching its fatal close, because she saw in him one who represented the better feeling of the nation toward that wronged and helpless race whom she had so greatly loved. Upon her deathbed she committed to the hands of the Indian Rights Association as a solemn legacy the redress of past wrongs, present sufferings, and the future hopes of the Mission Indians. Mrs. Jackson died in cheerful confidence that the Association would be faithful to the trust committed to it. With a sense of responsibility for the execution of this trust the Association makes the present statement of the case at issue for the information of the public.

FACTS IN THE CASE OF THE MISSION INDIANS.

The following excerpts from a letter written by Hon. Hiram Price, Ex-Commissioner of Indian Affairs, are important as throwing light upon the case of the Mission Indians. This letter, addressed to the Hon. Secretary of the Interior, is dated at Washington, January 10th, 1884, and is as follows:

(*Excerpts from Commissioner Price's Letter.*)

"The injustice done the Mission Indians, and their deplorable condition, have been set forth by several Commissioners and treated of at length by various Annual Reports of this office, especially those of 1875 and 1880, and Congress has been repeatedly solicited to interfere in their behalf. Through the failure of Congress to afford any relief their condition has been rapidly growing worse, until, at the present time, they are threatened with the total loss of the lands they have cultivated for years, and from which they have derived their support with but trifling aid from the Government.

"Under the Treaty of Guadaloupe Hidalgo (9 Stat. 922) the rights of these Indians were guaranteed, and in accordance with the decision of the Supreme Court of the United States in the case of the United States versus Ritchie (17 Howard, 525), it is probable *that they are citizens of the United States and entitled to all the privileges and immunities of such citizens.* [Italics ours.] Instead of being accorded the rights of citizens, however, they have not received as much consideration as wild tribes found in other parts of the country."

Before the acquisition of California by the United States it was provided by the Mexican Government that in making grants or distribution of land (known as Mexican grants) the rights of the Indians should be protected. Commissioner Price then quotes from a report made by Government Commissioners in 1874, showing that this provision of the Mexican Government has been utterly disregarded. The report states:

"Gradually, however, for the last eight years Southern California has been filling up by emigration; Spanish and Mexican grants have been determined in such a way as to cover choice tracts wherever found; large ranches have been cut up and the desirable portion of the public domain pre-empted; and thus all available agricultural lands have been seized or occupied by individual owners who, in conformity to law (?) have become possessed of the lands on which the remnants of a few thousand Mission Indians are making their homes in San Diego and San Bernardino counties. * * * Writs of ejectment are being procured by which the Indians are forcibly dispossessed and turned adrift in poverty and wretchedness."

Mr. Price adds:

"The work of despoiling the Indians has been done under the form of law and of the stipulations contained in the original grants."

(*Extract from the Report of Mrs. Jackson and Mr. Kinney to the Commissioner of Indian Affairs, 1883.*)

It is certain that in the case of all these Mission Indians the rights involved are quite different from and superior to the mere "occupancy" right of the wild and uncivilized Indian.

At the time of the surrender of California to the United States these Mission Indians had been for over seventy years the subjects, first of the Spanish Government, secondly of the Mexican. They came under the jurisdiction of the United States by treaty provisions, the treaty of Guada-

loupe Hidalgo, between the United States and Mexico, in 1848. At this time they were so far civilized that they had become the chief dependence of the Mexican and white settlers for all service indoors and out. In the admirable report upon these Indians made to the Interior Department in 1853, by the Hon. B. D. Wilson, of Los Angeles, are the following statements:

"These same Indians had built all the houses in the country, planted all the fields and vineyards. Under the Missions there were masons, carpenters, plasterers, soapmakers, tanners, shoemakers, blacksmiths, millers, bakers, cooks, brickmakers, carters and cartmakers, weavers and spinners, saddlers, shepherds, agriculturists, horticulturists, vineros, vaqueros; in a word, they filled all the laborious occupations known to civilized society."

The intentions of the Mexican Government toward these Indians were wise and humane. At this distance of time, and in the face of the melancholy facts of the Indians' subsequent history, it is painful to go over the details of the plans devised one short half century ago for their benefit. In 1830 there were in the twenty-one Missions in California, some 20,000 or 30,000 Indians living comfortable and industrious lives under the control of the Franciscan fathers. The Spanish colonization plan had, from the outset, contemplated the turning of these Mission establishments into pueblos as soon as the Indians should have become sufficiently civilized to make this feasible. The Mexican Government carrying out the same general plan, issued in 1833, an act called the secularization act, decreeing that this change should be made. This act provided that the Indians should have assigned to them cattle, horses, and sheep from the mission herds; also lands for cultivation. One article of Governor Figueroa's regulations for the carrying out of the secularization act provided that there should be given to every head of a family, and to all above twenty-one years of age, though they had no family, a lot of land not exceeding 400 varas square, nor less than 100. There was also to be given to them in common, enough land for pasturing and watering their cattle. Another article provided that one-half the cattle of each mission school should be divided among the Indians of that mission in a proportionable and equitable manner; also one-half of the chattels, instruments, seeds, &c. Restrictions were to be placed on the deposition of this property. The Indians were forbidden "to sell burden, or alienate under any pretext the lands given them; neither can they sell the cattle." The Commissioners charged with the carrying out of these provisions were ordered to "explain all the arrangements to the Indians with suavity and patience;" to tell them that the lands and property will be divided among them so that each one may "work, maintain, and govern himself without dependence on any one." It was also provided that the rancherias (villages) situated at a distance from the missions, and containing over twenty-five families, might, if they

chose, form separate pueblos, and the distribution of lands and property to them should take place in the same manner provided for those living near the Missions.

These provisions were in no case faithfully carried out. The administration of the Mission's vast estates and property was too great a temptation for human nature, especially in a time of revolution and misrule. The history of the thirteen years between the passing of the secularization act and the conquest of California is a record of shameful fraud and pillage, of which the Indians were the most hapless victims. Instead of being permitted each one to work, maintain, and govern himself without dependence on any one, as they had been promised, their rights to their plats of land were in the majority of cases ignored; they were forced to labor on the mission lands like slaves; in many instances they were hired out in gangs to cruel masters. From these cruelties and oppressions they fled by hundreds, returning to their old wilderness homes. Those who remained in the neighborhood of the pueblos became constantly more and more demoralized and were subjected to every form of outrage. By a decree of the Los Angeles aqumiento, about the time of our taking possession of California, all Indians found without passes, either from the alcalde of the pueblos in which they lived, or from their "masters (significant phrase), were to be treated as horse-thieves and enemies." At this time there were, according to Mr. Wilson's report, whole streets in Los Angeles where every other house was a grog shop for Indians; and every Saturday night the town was filled with Indians in every stage of intoxication. Those who were helpless and insensible were carried to the jail, locked up, and on Monday morning bound out to the highest bidders at the jail gates. "The Indian has a quick sense of justice," says Mr. Wilson; "he can never see why he is sold out to service for an indefinite period for intemperance, while the white man goes unpunished for the same thing, and the very richest and best men, to his eye, are such as tempt him to drink, and sometimes will pay him for his labor in no other way." Even the sober, industrious, and best skilled among them could learn but little, it having become a custom to pay an Indian only half the wages of a white man.

From this brief and necessarily fragmentary sketch of the position and state of the Mission Indians under the Mexican Government, at the time of the surrender of California to the United States, it will be seen that our Government received by the treaty of Guadaloupe Hidalgo a legacy of a singularly helpless race in a singularly anomalous position. It would have been very difficult even at the outset, to devise practicable methods of dealing justly with these people and preserving to them their rights. But with every year of our neglect the difficulties have increased and the wrongs have been multiplied, until now it is, humanly speaking, impossible to render to them full measure of justice. All that is left in our power is to make them some atonement. Fortunately for them,

their numbers have greatly diminished. Suffering, hunger, disease and vice have cut down more than half of their numbers in the last thirty years; but the remnant is worth saving. Setting aside all question of their claims as a matter of atonement for injustice done they are deserving of help on their own merits. No one can visit their settlements, such as Aqua Caliente, Saboba, Cahuilla Valley, Santa Isabel, without having a sentiment of respect and profound sympathy for men who, friendless, poor, without protection from the law, have still continued to work, planting, fencing, irrigating, building houses on lands from which long experience has taught them that the white man can drive them off any day he chooses. That drunkenness, gambling, and other immoralities are sadly prevalent among them cannot be denied; but the only wonder is that so many remain honest and virtuous under conditions which make practically null and void for them most of the motives which keep white men honest and virtuous.

SABOBA.

Saboba is the name of a village of Indians of the Serrano tribe, one hundred and fifty-seven in number, living in the San Jacinto Valley, at the base of the San Jacinto Mountains, in San Diego County. The village is within the bounds of a Mexican grant, patented to the heirs of J. Estudillo, January 17th, 1880. The greater part of the grant has been sold to a company which, in dividing up its lands, allotted the tract where the Saboba village lies to one M. R. Byrnes, of San Bernardino, who proposes to eject the Indians unless the United States Government will buy his whole tract of 700 acres at an exorbitant price. The Saboba village occupies about 200 acres, the best part of Mr. Byrnes' tract. The Indians have lived in the place for over a hundred years. They have adobe houses, fenced fields and orchards, and irrigating ditches. There is in the village a never-failing spring, with a flow of about twenty-five miner's inches. It is claimed by the Indians that the first surveys did not take in their village. This is probably true; the resurveying of grants and "floating" their lines so as to take in lands newly discovered to be of value, and leave out others discovered to be worthless, being a common practice in California. In a country where water is gold, such a spring as these Saboba Indians owned could not long escape notice or be left long in the undisturbed possession of Indians. These Indians support themselves now, and have always done so, by farming, and by going out in organized bands as sheep-shearers and vintagers. They are industrious and peaceable, and make in good seasons a fairly comfortable living. They formerly kept stock, but since the new occupancy, allotting and fencing off their valley, have been obliged to give it up. There is a Government school in this village, numbering from thirty to forty pupils, who have made remarkable progress in their studies. The school is

taught by a Pennsylvania lady, formerly a teacher of the freedmen. Her gentleness and refinement have exerted an influence all through the village, and her self-denying labors among the people in times of sickness and suffering have been the work of a missionary rather than a teacher. The following letters were written by two of the children in this school, both under fourteen years of age. They were written without the teacher's knowledge or aid, and brought to her with the request that she would send them. The handwritings are clear and good:

To the President of the United States.

Mr. President—Dear Sir:—I wish to write a letter for you, and I will try to tell you some things. The white people call San Jacinto rancho their land, and I don't want them to do it. We think it ours, for God gave it to us first. Now I think you will tell me what is right, for you have been so good to us, giving us a school and helping us. Will you not come to San Jacinto sometime to see us, the school and the people of Saboba village? Many of the people are sick and some have died. We are so poor that we have not enough good food for the sick, and sometimes I am afraid that we are all going to die. Will you please tell what is good about our ranches, and come soon to see us?

Your friend,

RAMON CAVAVI.

Mrs. Jackson.

My Dear Friend:—I wish to write you a letter about the American people that want to drive us away from our own village of Saboba. I don't know what they can be about. I don't know why they do so. My teacher told me she was very sorry about the town, and then my teacher said, I think they will find a good place for you if you have to go; but I do hope they will not drive you away. Then it will be very good for all the people of Saboba. It is a very good town for the people. They have all the work done on their gardens, and they are very sorry about the work that is done. My work is very nicely done also. The people are making one big fence to keep the cows and horses off their garden.

Your true friend,

ANTONIO LEON.

These Saboba Indians are greatly dispirited and disheartened at the prospect of being driven out of their homes, and feel that the Government ought to protect them. The captain of the village, a very sensible and clear-headed man, said, "If the Government says we must go, we must; but we would rather die right here than move." The right of

these Indians to the tract they have so long occupied and cultivated is beyond question. That this right could be successfully maintained in the Courts is the opinion of the law firm of Brunsen & Wells, whose admirable paper covering all cases of this kind is given herewith.

We found three miles from this village on Government land a narrow canon called Indian Canon, in which half a dozen Indian families were living. The canon is but five or six miles long, and very narrow; but it has a small, never failing brook in it, and some good bottom land, on which the Indians had excellent wheat crops growing. The sides of it are moderately well wooded. It was surprising that so desirable a nook had been overlooked or omitted by the surveyors of the San Jacinto Ranch. We wrote to the Department immediately, recommending its being set aside for Indians' use. In another beautiful canon, also with a never-failing stream running through it, we found living the old chief, Victoriano, nearly one hundred years old. The spot was an oasis of green, oak and willow trees, a wheat field, and apricot orchard and vineyard, the latter planted by Victoriano's father. This place has been given by Victoriano to his grandson, who we are told is taking steps to secure it to himself under the Indian homestead act.

THE CAHUILLA RESERVATION.

The Cahuilla Valley is about forty miles from Saboba, high up among the peaks and spurs of the San Jacinto Mountains; a wild barren, inaccessible spot. The Cahuilla Village, situated here, was one of the most interesting that we visited, and the Indians seemed a clear-headed, more individual and independent people than any other we saw. This is partly due to their native qualities, the tribe having been originally one of the most warlike and powerful in the country, as is indicated by their name, which signifies "master." The isolation of this village has also tended to keep these Indians self-respecting and independent. There is no white settlement within ten miles, there being comparatively little to tempt men into these mountain-fastnesses. The population of the village numbers from one hundred and fifty to two hundred. The houses are of adobe, thatched with reeds; three of the houses have shingled roofs, and one has the luxury of a floor. These Indians make the greater part of their living by stock raising. They also send out a sheep-shearing band each year. They have sixteen fields, large and small, under cultivation, and said they would have had many more except for the lack of plows, there being but one plow for the whole village. They raise wheat, barley, corn, squashes, and watermelons. Sometimes the frost kills the corn, and occasionally the grasshoppers descend on the valley, but aside from these accidents their crops do well. All through the village were to be seen their curious outdoor granaries—huge baskets made of twisted and woven twigs and set up on poles. The women were neatly dressed, the children especially so, and the faces

of all, men, women and children, had an animation and look of intellectual keenness very uncommon among the Southern California Indians. On the outskirts of the village is a never-failing hot spring. They had been told so by some white men, but they knew nothing certainly. The lines had never been shown to them. On subsequent examination at the Surveyor-General's office in San Francisco we discovered that this spring and the village itself are entirely outside the reservation lines; also that another Indian settlement called Duasno, a few miles distant, and intended to have been included in the reservation, is outside the lines. The Cahuilla Reservation stands recorded as containing twenty-six sections of land; so far as we could judge of the region, it seemed to us a generous estimate to say that there might be possible five hundred acres of cultivatable land in it. In good years there would be considerable pasturage on the sides of the mountains; but as the greater part of the tract is absolutely worthless, being bare and stony mountains. The Cahuillas, however, are satisfied with it. They love the country and would not exchange it for fertile valleys below. They said that they would be perfectly contented if the Government would only mark their land off for them, and set up boundaries so that they could know where they might keep their own stock and keep the white men's stock out. All they asked for in addition to this was some harnesses, wagons, and agricultural implements, especially plows. Of these last the captain reiterated, and was not satisfied till he saw the figures written down, that ten was the smallest number that would be sufficient for the village.

A few rods from the hot springs there stood a good adobe house, shut up, unoccupied. The history of this house is worth telling, as an illustration of the sort of troubles to which Indians in these remote regions, unprotected by the Government, and unable to protect themselves, are exposed. Some eight years ago the Cahuillas rented a tract of their land as pasture to two Mexicans named Machado. These Machados, by permission of the Indians, built this adobe house, and lived in it when looking after their stock. At the expiration of the lease the house was to be the property of the Indians. When the Machados left they said to the Cahuilla captain, "Here is your house." The next year another man named Thomas rented a pasture tract from the Indians and also rented this house, paying for the use of it for two years six bulls and putting into it a man named Cushman, who was his overseer. At the end of the two years Thomas said to the Cahuillas, "Here is your house; I now take my cattle away." But the man Cushman refused to move out of the house; said it was on railroad land which he had bought of the railroad company. In spite of the Indians' remonstrances he lived on there for three or four years. Finally he died. After his death his old employer, Thomas, who has once rented this very house from the Indians, came forward, claimed it as his own, and has now sold it to a man named Parks. Through all this time the Indians committed no violence on the

trespassers. They journeyed to Los Angeles to find out from the railroad company whether Cushman owned the land as he said, and were told that he did not. They laid the matter before their agent, but he was unable to do anything about it. It would seem of the greatest importance in the case of this reservation, and of all others similarly placed, that the odd section claimed or owned by the railroad companies should be secured and added to the permanent reservation. Much further trouble will in this way be saved.

An incident which had occurred on the boundaries of the Cahuilla reservation a few weeks before our arrival there is of importance as an illustration of the need of some legal protection for the Indians in Southern California. A Cahuilla Indian named Juan Diego had built for himself a house and cultivated a small patch of ground on a high mountain ledge a few miles north of the village. Here he lived alone with his wife and baby. He had been for some years what the Indians call a "locoed" Indian, being at times crazy; never dangerous, but yet certainly insane for longer or shorter periods. His condition was known to the Agent, who told us that he had feared he would be obliged to shut Juan up if he did not get better. It was also well known throughout the neighborhood country, as we found on repeated inquiry. Everybody knew that Juan Diego was "locoed." (This expression comes from the effect a weed of that name has upon horses, making them wild and unmanageable.) Juan Diego had been off to find work at sheep-shearing. He came home at night riding a strange horse. His wife exclaimed, "Why, whose horse is that?" Juan looked at the horse, and replied, confusedly, "Where is my horse, then?" The woman, much frightened, said, "You must take that horse right back; they will say you stole it." Juan replied that he would as soon as he had rested; threw himself down and fell asleep. From this sleep he was awakened by the barking of dogs, and ran out of the house to see what it meant. The woman followed, and was the only witness of what then occurred. A white man, named Temple, the owner of the horse which Juan had ridden home, rode up, and, on seeing Juan, poured out a volley of oaths, leveled his gun, and shot him dead. After Juan had fallen on the ground Temple rode closer and fired three more shots in the body, one in the forehead, one in the cheek, and one in the wrist, the woman looking on. He then took his horse, which was standing tied in front of the house, and rode away. The woman, with her baby on her back, ran to the Cahuilla village and told what had happened. This was in the night. At dawn the Indians went over to the place, brought the murdered man's body to the village, and buried it. The excitement was intense. The teacher, in giving us an account of the affair, said that for a few days she feared she would be obliged to close her school and leave the village. The murderer went to the nearest justice of the peace and gave himself up, saying he had in self-defense shot an Indian. He swore that the Indian ran towards him with a knife.

A jury of twelve men was summoned, who visited the spot, listened to Temple's story, pronounced him guiltless, and the judge so decided. The woman's testimony was not taken. It would have been worthless if it had been, so far as influencing that jury's minds was concerned. Her statement was positive that Juan had no knife, nor weapon of any kind; sprang up from his sleep and ran out hastily to see what had happened, and was shot almost as soon as he had crossed the threshold of the door. The district attorney in San Diego, on being informed by us of the facts in the case, reluctantly admitted that there would be no use whatever in bringing a white man to trial for murder of an Indian under such circumstances, with only Indian testimony to convict him. This was corroborated, and the general animus of public feeling vividly illustrated to us by a conversation we had later with one of the jurors in the case, a fine, open-hearted, manly young fellow, far superior in education and social standing to the average Southern California ranchman. He not only justified Temple's killing the Indian, but said he would have done the same thing himself. "I don't care whether the Indian had a knife or not," he said; "that didn't cut any figure at all the way I looked at it. Any man that'd take a horse of mine and ride him up that mountain trail I'd shoot him whenever I found him. Stockmen have just got to protect themselves in this country." The fact that Juan had left his own horse, a well-known one, in the corral from which he had taken Temple's; that he had ridden the straight trail to his own door, and left the horse tied in front of it, thus making it certain that he would be tracked and caught, weighed nothing in this young man's mind. The utmost concession that he would make was finally to say, "Well, I'll agree that Temple was to blame for firin' into him after he was dead. That was mean, I'll allow."

In the report made by Mrs. Jackson and Mr. Kinney from which Commissioner Price's letter is quoted, on page 5, a recommendation is made to the effect that:

"There be a lawyer or law firm in Los Angeles to act as special United States attorney in all cases affecting the interests of these Indians."

The report further adds:

"This recommendation has already been acted upon, and Messrs. Brunsen & Wells appointed by the Attorney-General as special assistants to the United States District Attorney, for the purposes indicated."

The firm of Messrs. Brunsen & Wells were appointed, during the last administration, by Attorney-General Brewster.

They, however, in the case of Byrnes versus the Saboba Indians, suffered the case of the Indians to go by default. It has since been re-instated in the courts, and, under the present Administration, Shirley C. Ward has been appointed in Messrs. Brunsen & Wells place to conduct the case for the Government in behalf of the Saboba band of the Mission Indians.

This case is one in which the validity of the claim of the Saboba Indians, to the lands they have long occupied, is disputed. It is a case of vital interest not only to the Saboba Indians, but to all other of the Mission Indians; since the decision arrived at in this case will decide whether the Indians own the homes and villages in which they have lived for so many years, or whether their claims are to be disregarded and they themselves driven to the mountains, and deserts to share the fate which has fallen upon so many of their people.

After Prof. Painter's return from California, during the past summer, he presented the facts regarding the Mission Indians to the Indian Rights Association. That organization determined to do all that might be possible to secure for the Indians a fair chance, and to give Mr. Shirley C. Ward, their counsel, whatever support might be needed to encourage his efforts in securing their rights.

A committee composed of Dr. James E. Rhoads, President of the Indian Rights Association, Herbert Welsh, Corresponding Secretary, and Prof. C. C. Painter, on January 9th, visited the Indian Commissioner, Hon. J. D. C. Atkins, and afterwards President Cleveland, relative to this matter. Mr. Atkins expressed satisfaction at the way in which Mr. Ward was conducting the case on behalf of the Government, and said that he had given evidence of interest and ability. The committee replied that this agreed with the estimate which the Law Committee of the Indian Rights Association had formed of Mr. Ward from an examination of his legal brief. Mr. Atkins admitted, in reply to a question from Dr. Rhoads, that the compensation which Mr. Ward would receive from the Government was insufficient, and that an additional compensation from the

Indian Rights Association would be valuable and timely, although he regretted that the Government should fail to adequately compensate him for his services.

The President was then visited by the Committee, and the case of the Mission Indians brought to his attention.

He evinced a marked interest in it, asked Prof. Painter to call upon Attorney-General Garland, and to ask him, at the President's request, to have the validity of the Mission Indians' title to their lands tested in the courts.

Prof. Painter, in a letter to the Corresponding Secretary of the Indian Rights Association, dated Washington, February 25th, 1886, referring to the President's request, says:

"I did this; and Mr. Garland said that a request, or question, must come from the Interior Department before he could consider it. On consultation with the Indian Commissioner it was decided to submit the question to the Attorney-General, whether these titles, in his opinion, under the old Mexican grants were valid; and the lawyers in the land division were instructed to prepare such a question.. They informed the Commissioner that the very question was in Court now in California, in the case of Brynes vs. the Saboba Indians, and that he should simply wait for a decision of that case.

"I then told the history of that case and of the treatment by the Government by Brunsen & Wells, and urged that special counsel, either Wells or some one else be instructed to urge the case forward to a decision. Mr. Atkins informed me that Shirley C. Ward had been appointed in the place of Wells, and that he would push it. I then wrote Ward that we did not want the case to suffer because of red tape here in Washington. That if he found it necessary to do certain things for which the Government made no provision he must do them, and we, within reasonable limits, would meet the expense; the Government paying his fees.

"In reply Mr. Ward informed me that he *was appointed to serve without compensation* and this he could not afford to do.

"I then went to Mr. Garland and asked if it was the practice to ask the assistance of special counsel on such terms. He said that he had done precisely what the Interior Department had asked him to do—appointed Mr. Ward as special counsel to protect the interests of the Mission Indians which service was to be without compensation, only that $200 per annum was to be allowed for necessary expenses on the presentation of proper vouchers. No fault could be found with him for doing what he had been asked to do. He would give no hint as to whether he

would appoint him with compensation, if so requested by Mr. Lamar; saying that he would answer that question when asked by Mr. Lamar. I then went to the Commissioner to know whether it was by his suggestion and by his instructions, that the request was made that there should be no compensation to Mr. Ward for his services. This he most emphatically denied. On my assurance that Attorney-General declared that this was the request * * * he said he would look up the correspondence and see whether there was not some mistake. When I called the next day I was informed that the correspondence did not show that such a request had been made. The Commissioner directed his clerk to write a line to Mr. Garland asking that compensation should be allowed. After a few days I went to Mr. Garland to learn the decision of his office. He said no request had come to him, and he would give his answer within fifteen minutes after it reached him, but not one minute before. Again I went to the Bureau, seeking information as to Mr. Garland's reply, but none had come. Again, after a few days, I went to the clerk in the Land Division of the Bureau, and saw Mr. Garland's reply, which was that he had but little funds to compensate such service.

"My next visit was to Mr. Garland in company with yourself,—the next day after seeing this decision. You remember he told me that I was but wasting my time coming to him. * * * He then referred us to Mr. Robinson's room where, he said, that we would find the correspondence.

"You remember that Mr. Robinson said that Messrs. Brunsen & Wells were represented as having a philanthropic interest in the Indians and willing as an act of charity to undertake their defence and were appointed to the position of special attorneys on the understanding that they were to have no compensation, only an allowance of $200 for actual expenses * * * that, at the request of Mr. Lamar, Shirley C. Ward had been appointed in the place of these men on exactly the same terms. You will also remember the stunning effect on Mr. Robinson when you pointed out the lines in Attorney General Brewster's letter to those gentlemen in which he expressly stipulated that the amount of compensation allowed would be a matter of adjustment after the service had been rendered, but hinting that it would be moderate.

"Yours truly,

"C. C. PAINTER.

"To Herbert Welsh, Esq., Cor. Sec'y I. R. A."

It will be clearly seen from the foregoing statement that a misunderstanding of the facts, in this important case, existed in the mind of Mr. Garland: 1st, That in the Department of Justice it was erroneously supposed that Messrs. Brunsen &

Wells had been appointed to undertake the legal defence of the Mission Indians *without compensation*, whereas the reverse was the case, and that Mr. Ward, in receiving his appointment to service without compensation, had been placed on the same footing with Brunsen & Wells. 2d, That Mr. Garland was in error when he claimed that Mr. Atkins had not asked that Mr. Ward should be appointed to serve with compensation. The following letter from Mr. Atkins, the Hon. Commissioner of Indian Affairs, to the Corresponding Secretary of the Indian Rights Association, clearly establishes the correctness of this latter statement:

"DEPARTMENT OF THE INDIAN OFFICE OF INDIAN AFFAIRS.

"WASHINGTON, March 9th, 1886.

"TO HERBERT WELSH, ESQ.

"SIR:—I am in receipt of your communication dated March 4th, 1886, with reference to compensating Mr. Shirley C. Ward for services as special attorney for the Mission Indians, and in which you suggest that the attention of the Attorney-General be called to the real state of the case, with the hope that he may be induced to adopt more liberal measures regarding Mr. Ward.

"In reply I have to state that, in a report to the Secretary of the Interior, dated February 9th, 1886, I called the attention of the Attorney-General to this matter, and remarked that the character and extent of the services named by Mr. Ward undoubtedly warranted the compensation named by him ($500.00), and expressed the hope that if the appropriations of the Department of Justice would permit, he be allowed said compensation.

"In a communication, dated February 13th, 1886, the Attorney-General replied that he would be glad to adopt my suggestion, but that the appropriation for his department did not warrant it.

"Under date of March 4th, 1886, I informed Hon. Barclay Henley, of the House of Representatives, of the action taken, and stated that I saw no way in which Mr. Ward could be compensated, unless Congress could be induced to make the necessary appropriation.

"I would be pleased to have your Society bring the matter before Congress, and will cheerfully co-operate in any effort you may see fit to make for the purpose of securing proper compensation for Mr. Ward.

"Very Respectfully,

"J. D. C. ATKINS,

"*Commissioner.*"

As will be seen from the foregoing letter the Indian Rights Association is acting in complete harmony with the Indian Bureau in its efforts to defend the Mission Indians in the time of their extreme peril, and to procure such compensation for Mr. Ward as will enable him to accept the trying position which the Government has offered him, and to perform the very difficult duties which his acceptance of it requires. It is also made evident by Mr. Atkins' letter that no financial aid can reasonably be expected from the Department of Justice and that the only hope which the friends of the Indians can entertain of securing compensation from the Government for Mr. Ward is through an appropriation from Congress, as suggested by the Hon. Commissioner of Indian Affairs. Every effort will be made upon the part of the Association to assist Mr. Atkins in securing this object. In the meantime, however, in view of the fact that Mr. Ward could not undertake the work in hand without some reasonable assurance that his efforts would be supported, and as it was felt the Government could not altogether be depended upon in this regard, the Association appealed to the charitable public. This appeal has been so generously responded to by a number of influential persons in the city of Boston that the Corresponding Secretary of the Association has written to Mr. Ward under instructions from the Executive Committee, assuring him that the sum of at least five hundred dollars will be guaranteed him in case the Government fails to supply adequate compensation for his services.

It is gratifying to be able to announce to those interested in this question that a letter has recently been received from Mr. Shirley C. Ward addressed to the Corresponding Secretary of the Association, stating that upon the promise made to him by the Indian Rights Association, he would agree to prosecute the case. Had it not been for this promise he would have been forced to retire from his position. A more recent letter has been received from Mr. Ward under date of March 30th, 1886, which contains a passage of so great interest that it may with propriety be quoted here.

"SHIRLEY C. WARD,
"ATTORNEY-AT-LAW,
"Room 38, Temple Block, P. O. Box 1367.

"LOS ANGELES, CAL., March 30, 1886.

"HERBERT WELSH, ESQ.,
"1316 Filbert Street, Philadelphia.

"MY DEAR SIR:—Since the formal announcement has been made to the Indians that I am their legal representative, they have crowded upon me thick and fast with their troubles (and they have a world of them). Delegation after delegation have visited me and have submitted legal conundrums that are fairly startling in their proportions. I never dreamed that their interests would require the attention that I now find they will. I have recently won a victory in favor of the Indians that gives me great satisfaction. Sometime ago I found it desirable for some of them to take up state school lands upon which they were living, but to which they had no title. So I had them to file application to purchase the same under the State laws, which required that only citizens of the United States could purchase the same. I then prepared a brief and filed the same before the State Surveyor-General and Attorney-General in which I assumed the position that the Mission Indians were citizens of the United States. That brief resulted in the Attorney-General certifying to the Surveyor-General that in his estimation these Indians were citizens, and therefore as such were entitled to purchase State lands. This is quite a victory for these Indians, as our State officials and Courts have heretofore denied their citizenship. This opens a new field to the Indian, so far as his land rights are concerned, as it will allow him to avail himself of the United States land laws for Indians as well as for whites. He can now exercise his preference as to whether he will be an Indian and take up land as a gift, but be required to live upon it twenty-five years before getting title, or he can, if he chooses, be a white (citizen) man and pay the regular fees for entering lands and acquire title upon the same terms as outsiders. If this position assumed by me and ratified by the Attorney-General is sustained by the Supreme Court (and I shall have a test case before it before long) the whole political status of these Indians will be changed. The prospect of their becoming an integral part and parcel of the body politic is certainly encouraging.

"I am, your obedient servant,

"SHIRLEY C. WARD."

(Copy.)

The objects aimed at in the publication of this pamphlet have been:

1st. To lay before the public in a brief and readable form the incredible wrongs and sufferings of the Mission Indians at the hands of the citizens of a Government esteemed the most humane and liberal in the world; and thereby to awaken interest and enlist the efforts of the good people of the United States in a wise and vigorous effort to redress these wrongs, and so to vindicate the honor of the nation.

2d. To show the obstacles which lie in the path and block the way of the friends of the Indians in Washington, and which can be removed only by the exercise of great patience and determination. Many of these obstacles it will readily be seen are inseparable from the course of official routine.

3d. To illustrate the necessity for permanent organization, such as exists in the Indian Rights Association, and show the important results which such an organization is capable of attaining.